

**REMARKS**

In response to the December 18, 2002, Office Action, Applicants' offer the following remarks.

The December 18, 2002, Office Action does not address the claims found in Applicants' November 16, 2000, Preliminary Amendment. A copy of such amendment and the postcard showing that the U.S. P.T.O. received such amendment on December 1, 2000, is included with this response. As the preliminary amendment cancelled Claims 7-13 and added new Claims 14-26, the rejection of Claims 7-13 is moot. As a result, Applicants' response only addresses the rejection of original Claim 1. Furthermore, as Claims 14-26 were not considered by the Examiner, Applicants contend that the next Office Action should not be a final rejection.

In addition to addressing the rejection of Claim 1, Applicants are including an abstract on a separate sheet of paper, a priority claim and a supplemental information disclosure statement.

Claims 1 and 14-26 are pending.

**REJECTIONS UNDER 35 U.S.C. 102(b)**

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by the compositions disclosed in U.S. 5,500,138. In making such rejection, the Examiner states that the claimed perfume compound's odor detection threshold is inherent in the perfume compositions of '138, as perfumes having such low values are common in the perfume art. No basis in fact or technical reasoning is given to support such assertion.

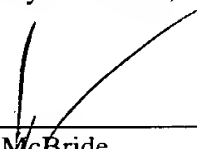
According to MPEP § 2131, to anticipate a claim, the reference must teach every element of the claim. According to MPEP § 2112 an Examiner must provide rationale or evidence tending to show inherency. Furthermore, the fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993). Instead, the Examiner must provide a basis in fact and/or technical reasoning to reasonably support such assertion. *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990).

In summary, as the Examiner provides no basis in fact or technical reasoning as to why a component of the compositions of '138 would have a odor detection threshold less than 50 ppb, Applicants assert that the 35 U.S.C. § 102(b) rejection of Claim 1, which is grounded in inherency, is unsupported and should be withdrawn.

**CONCLUSION**

In view of Applicants' remarks, it is requested that the Examiner allow Claim 1 and Claims 14-26 as such claims depend from Claim 1. If, prior to allowance, any outstanding issues exist, Applicants' attorney would welcome the opportunity to resolve such issues via a phone interview.

Respectfully submitted,



---

James F. McBride  
Attorney for Applicants  
Registration No. 43,784  
(513) 627-0079

Date: February 6, 2003  
Customer No. 27752  
(AMENDMENT.DOC)  
(Revised 12/10/01)



**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**Brackets = deleted**

**Dashes = added**

**IN THE SPECIFICATION**

1.) Please add the attached abstract.

2.) Page 1, between the title of the invention and Technical field of the invention please add the following:

**--Cross reference to related applications**

This application is a national stage entry under 35 U.S.C. § 371 of PCT/IB99/01028, filed June 4, 1999, which claims priority to EP 98870137.1 filed June 15, 1998.--



Case CM1829

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the matter of

U.S. National Phase Entry  
Under 35 USC 371 from  
the International Application of  
CUNNINGHAM, Philip Andrew et al  
Int'l Application No. PCT/IB99/01028  
Filed in the RO/US on 04 June 1999  
Entitled: Perfume Compositions

PRELIMINARY AMENDMENT

Assistant Commissioner for Patents  
Box PCT  
Washington, D.C. 20231

Dear Sir:

Before computing the fees for entering the captioned International Application into the U.S. National Phase, please enter the following amendments IN THE CLAIMS:

- \* Please cancel Claims 2-13.

Please add the following new claims:

14. A composition according to Claim 1, wherein said Class 1 HIA perfume ingredient is present in an amount of at least 20%.
15. A composition according to Claim 1, wherein said Class 2 HIA perfume ingredient is present in an amount of at least 40% by weight of the perfume composition.
16. A composition according to Claim 1, wherein said composition is encapsulated.
17. A composition according to Claim 16, wherein the material used for encapsulating the perfume material is a water-soluble modified starch solid matrix.
18. A composition according to Claim 17, wherein the material used for encapsulating the perfume material is a starch raw material that has been modified by treating said starch raw material with octenyl-succinic acid anhydride.
19. A composition according to Claim 18 wherein said modified starch is mixed with a polyhydroxy compound before treatment with octenyl-succinic acid anhydride.

RECEIVED  
FEB 26 2003  
TC 1700

20. A composition according to Claim 19, wherein said polyhydroxy compound is present in an amount of at least 20% by weight of the mixture.

21. A laundry and cleaning composition comprising a detergent ingredient and a perfume composition according to Claim 1.

22. A composition according to Claim 21, wherein said perfume composition is incorporated to the laundry and cleaning composition by means selected from spraying, dry-mixing, and mixtures thereof.

23. A composition according to Claim 21, wherein said composition further comprises a bleaching system.

24. A composition according to Claim 21, wherein said composition is selected from the group consisting of a detergent composition, a hard surface cleaning composition, a dishwashing composition.


25. A method of delivering perfume residually on surfaces, which comprises the steps of contacting the surface with a composition according to Claim 21.

26. A method according to Claim 25, wherein said surfaces, are made of mixed types of surfaces.

The support for these amendments is found in the claims as originally filed. These amendments are being entered to bring the claims into conformance with, *inter alia*, 37 C.F.R. §1.75; no new matter is added.

Respectfully submitted for Applicants,

By:

  
T. David Reed  
Agent for Applicants  
Registration No. 32,931

16 November 2000  
5299 Spring Grove Avenue  
Cincinnati, Ohio 45217-1087  
Phone: (513) 627-7025  
FAX: (513) 627-6333



Received:

Form PTO 1390 - Transmittal Letter To the United States  
Designated/Elected Office (DO/EO/US)  
Concerning A Filing Under 35 U.S.C. 371  
Associate Power of Attorney  
Preliminary Amendment  
Declaration Combined With Power of Attorney

In Re: US National Phase Entry

Under 35 U.S.C. 371 from  
the International Application of  
**09/701803**

*Cunningham Philip A. et al*  
International Application No.: *PCT/US99/01028*

International Filing Date: *04 June 1999*

Case No. *09/701803*

*4.1.1000 PCT/PTO 01 DEC 2000*  
*PSEI*

RECEIVED  
FEB 26 2003  
TC 1700